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Case Summaries for May, June & July 2018

1. [*Barnes v. Hon. Bernini*, \(Division 2, July 31, 2018\)](#)

Where the issue of dangerousness is erroneously submitted to the jury during the guilt phase with respect to some convictions but not others, the court may empanel a new jury to decide the dangerousness of the counts omitted without violating the prohibition against double jeopardy.

2. [*Byrd v. United States*, \(SCOTUS, May 14, 2018\)](#)

A driver in lawful possession of a rental car has a reasonable expectation of privacy even if he or she is not listed on the rental agreement.

3. [*Carpenter v. United States*, \(SCOTUS, June 22, 2018\)](#)

There is a legitimate expectation of privacy in the record of a person's physical movements as captured through cell-site location information (CSLI).

4. [*Collins v. Virginia*, \(SCOTUS, May 29, 2018\)](#)

The automobile exception does not permit the warrantless entry of a home or its curtilage to search a vehicle.

5. [*Currier v. Virginia*, \(SCOTUS, June 22, 2018\)](#)

Defendant who agrees to his charges being severed and having two separate trials waives claims of double jeopardy and issue preclusion.

6. [*Diaz v. Hon. Van Wie*, \(Division 1, July 31, 2018\)](#)

Given the constitutional exigency requirement as a necessary element of the statutory medical-draw exception and the difficulty of showing sufficient exigency, police should get a warrant before seizing a blood sample secured by medical personnel for medical purposes.

7. [*Gilbert Prosecutor's Office v. Hon. Foster*, \(Division 1, June 7, 2018\)](#)

A court may not inquire into the reasons for a timely filed notice of change of judge of right.

8. [*Leon v. Hon. Marner*, \(Division 2, April 27, 2018\)](#)

In DUI prosecutions the term "metabolite" is limited to only metabolites capable of causing impairment.

9. [*McCoy v. Louisiana*, \(SCOTUS, May 14, 2018\)](#)

A defendant has the right to insist that counsel refrain from admitting guilt even where confessing guilt offers the defendant the best chance to avoid the death penalty.

10. [*Morreno v. Hon. Brickner*, \(ASC, May 2, 2018\)](#)

Provision precluding bail for defendants already admitted to bail on a separate felony charge is not facially unconstitutional.

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11. [State v. DeAnda, \(Division 2, May 3, 2018\)](#)

Accurately advising a DUI arrestee of the implied-consent statute does not, without more, render the arrestee's consent to a blood draw involuntary.

12. [State v. Dutra, \(Division 1, July 31, 2018\)](#)

A kidnapping conviction may be based on a restraint of no more than 30 seconds and compelled movement of a mere 5 steps.

13. [State v. Hernandez, \(ASC, May 18, 2018\)](#)

A motorist has no legal right to refuse to comply with a traffic stop and police may assume that a pursued driver who turns into a private driveway consents to entry onto that protected space.

14. [State v. Hon. Brain \(Hu\), \(Division 1, May 24, 2018\)](#)

A person who uses a dangerous instrument in committing an animal cruelty offense may not be sentenced as a dangerous offender.

15. [State v. Hon. Wein, \(ASC, May 25, 2018\)](#)

Unless a defendant is accused of committing sexual assault while already admitted to bail on a separate felony charge, the trial court must make an individualized bail determination before ordering pretrial detention.

16. [State v. Jones, \(Division 1, June 26, 2018\)](#)

The AMMA does not immunize hashish.

17. [State v. Maestas, \(ASC, May 23, 2018\)](#)

Statute cannot criminalize AMMA-compliant marijuana possession or use on a public college or university campus.

18. [State v. Malone, \(Division 2, July 24, 2018\)](#)

Evidence of brain damage is admissible to corroborate a defendant's claim that he possesses a character trait for impulsivity but not to support a claim he was incapable of reflection.

19. [State v. Martin, \(Division 1, June 19, 2018\)](#)

Jury's conviction on a lesser offense after being unable to agree on the greater offense constitutes "genuine deadlock" allowing retrial on the greater offense where conviction is reversed on appeal.

20. [State v. Meeds, \(Division 1, May 3, 2018\)](#)

Statute enhancing the sentence of a criminal street gang member who threatens or intimidates another person is not unconstitutional.

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21. [State v. Redzinak, \(Division 2, May 22, 2018\)](#)

A term of probation ordered to run consecutively to a prison term imposed for another conviction based on the same conduct does not violate the statutory prohibition against double punishment.

22. [State v. Scalph, \(Division 1, July 19, 2018\)](#)

A defendant convicted of possession of dangerous drugs for sale must be sentenced to a flat term and is not eligible for early release.

23. [State v. Smith, \(Division 2, May 24, 2018\)](#)

Trial counsel's performance was deficient where failure to raise a suppression claim was based on unreasonable misunderstanding of the probable-cause evaluations rather than a reasoned, tactical decision to forego that claim.

24. [State v. Urrea, \(ASC, July 11, 2018\)](#)

Where the State commits a *Batson* violation in using peremptory strikes to remove Hispanic jurors from the venire, the trial court may either restore the wrongfully excluded jurors to the venire or call a mistrial.

25. [State v. Varela, \(Division 1, July 12, 2018\)](#)

A defendant raises a colorable claim of ineffective assistance of appellate counsel in alleging that counsel did not consult with him before dismissing his appeal and the record demonstrates his desire to pursue an appeal.

26. [Z.W. v. Hon. Foster, \(Division 1, May 24, 2018\)](#)

The trial court has discretion to address on a case-by-case basis whether using a particular term such as "alleged" to refer to a victim violates the victim's right to be treated with respect and dignity.